

REMARKS/ARGUMENTS

Claims 1-14 are pending in this application. By this Amendment, claims 1-2 are amended and new claims 5-14 are added. Support for new claims 5-14 can be found in the specification including the original claims and figures for example, see Figures 2-3. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

A. The Office Action rejects claims 1-4 under 35 U.S.C. §103(a) over U.S. Patent No. 5,606,242 to Hull et al. (hereafter Hull) and U.S. Patent No. 6,880,048 to Lemke. The rejection is respectfully traversed.

With respect to claim 1, Applicant respectfully submits that Hull and Lemke, individually or in combination fail to disclose or suggest features assessing, comparing and combinations recited therein as required under §103. For example, Hull fails to disclose or suggest at least features of comparing battery data periodically measured for the battery with the stored reference battery data to monitor the measured battery data and updating the reference battery data set in the battery by the stored reference battery data when it is determined in accordance with the comparison that the measured battery data is damaged.

In contrast, Applicant respectfully submits that Hull may disclose assessing battery data periodically measured for the battery with the stored reference battery data to

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determine current battery characteristics. See Figures 5A-8B of Hull, and column 4, line 60 – column 5, line 19 of Hull. However, Applicant respectfully submits that Hull does not disclose or suggest comparing battery data periodically measured for the battery with the stored reference battery data to monitor the measured battery data. Further, the Office Action admits that Hull does not disclose updating the reference battery data set in the battery by the stored reference battery data. See page 3, item 4, lines 10-12 of the Office Action.

Applicant respectfully submits that Lemke discloses that existing processes of updating flash memories is error-prone. An error during the update process can corrupt a flash ROM and render it useless. See column 2, lines 1-20 of Lemke.

Thus, Applicant respectfully submits Lemke discloses a method and apparatus for updating the contents of a first memory (e.g., flash ROM) of a computer system by storing the new information in a second memory capable of retaining information stored therein upon a restore of the computer system and the new information stored in the second memory can be verified before being loaded from the second memory into the first memory (e.g., flash ROM). See the Abstract and Figures 6-7 of Lemke. However, Applicant respectfully submits Lemke discloses verifying the new information stored in the second memory by checking the version or the date stamp of the new information,

checking the new information against hardware specifications of the computer system, performing a checksum test, or examining the power level of the computer system. See Figure 6 and column 8, lines 28-51 of Lemke. With respect to Figure 7, Lemke discloses the new information stored in the second memory can be tested by restarting the system with the new information in the second memory. See column 9, lines 26 -44 of Lemke.

Thus, Applicant respectfully submits that Lemke does not disclose at least features of comparing the battery data periodically measured to monitor the measured battery data, and updating the reference battery data, and combinations thereof as recited in claim 1. Thus, Applicant respectfully submits that Hull and Lemke, individually or in combination do not teach or suggest at least features or comparing the battery data periodically measured to monitor the measured battery data and updating the reference battery data and combinations thereof as recited in claim 1.

For at least the reasons set forth above, Applicant respectfully submits claim 1 defines patentable subject matter. Claims 2-4 depend from claim 1 and therefore also define patentable subject matter for at least that reason as well as their additionally recited features. Withdrawal of the rejection of claims 1-4 under §103 is respectfully requested.

B. Claims 5-14 are newly added by this Amendment and believed to be in condition for allowance. For example, Applicant respectfully submits that Hull and

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Lemke, individually or in combination do not teach or suggest at least features of restoring the reset battery reference data as stored reference battery data and combinations thereof as recited in claim 7.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, Carl R. Wesolowski, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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